

Amendments to the Drawings:

The attached drawing sheets include replacement drawing figures 1, 6 and 17-22. No new matter has been added with the addition of the replacement figures.

Attachment(s):

- Replacement drawing sheets for figures 1-22.

REMARKS/ARGUMENTS

The present Amendment and Response is an effort to overcome the objections and rejections cited in the Office Action mailed August 27, 2008, and to place the pending claims in condition for allowance.

The Applicants thank the Examiner for conducting a telephonic Examiner's Interview on December 12th 2008. In the interview, the Examiner indicated that including certain structural features to the claimed invention would overcome Brening, for example, a plurality of small apertures on the blade, or a clip for connecting the guard to the blade.

Claims 20, 25 and 40-47 are pending in this Application. Claims 1-18, 23, 26 and 28-32 were previously withdrawn from consideration. Claims 19, 21-22, 24, 27 and 33-39 have been cancelled. Claims 40-47 have been newly added. No new matter has been added with the newly added claims.

Dependent claim 25 has been amended to now depend from newly added Claim 47 (as opposed to now cancelled Claim 19), as well as to clarify the language of the subject matter claimed. Dependent Claim 20 depends from Claim 25 and as such, also depends from Claim 47. No new matter has been added with this amendment.

Objection to the Drawings:

The drawings were objected to for incorporating photographs (Figures 1, 6 and 17-22) in the drawings section of the Application. Formal replacement drawings for Figures 1, 6 and 17-22 have been attached to a complete set of Replacement Sheets as an Appendix following page 10 of this response.

Objection to the Specification:

The specification was objected to for not describing the actuator of the elected species. Applicants have cancelled the claims pertaining to the actuator. Accordingly, Applicants believe that the objection has been overcome.

Claim Rejections Under 35 U.S.C. §112:

Claims 21, 22 and 27 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement, while claims 19-22, 24, 27 and 36-39 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Both the 35 U.S.C. §112, first and second paragraph rejections were made in relation to the claimed "actuator".

Claims 19, 21-22, 24, 27 and 36-39 have been cancelled, and Claim 20 does not have any recitation relating to the actuator. Accordingly, Applicants believe that the 35 U.S.C. §112, first and second paragraph rejections have been overcome, and respectfully request the Examiner to withdraw the rejections.

Claim Rejections Under 35 U.S.C. §102(b):

Claims 19-22, 24, 25, 27 and 36-38 were rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 957,409 to Brening. Claim 39 was rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 5,299,355 to Boda et al. Claim 19 was rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 902,227 to Ridgely.

As indicated above, claims 19, 21-22, 24, 27 and 36-39 have been cancelled. Accordingly, the rejections of these claims under 35 U.S.C. §102(b) is now moot.

Regarding dependent claims 20 and 25, these claims now depend from the newly added claim 47, and are believed to be allowable for at least the reasons, described below, for which Claim 47 is considered allowable. Therefore, the Examiner is respectfully requested to withdraw the rejection on claims 20 and 25, and to place these claims in condition for allowance.

Newly Added Claims 40-47:

The newly added claims 40-47 include Independent claims 40 and 47 and dependent claims 41-46. No new matter has been added with the newly added claims. Support for each of these claims can be found in the drawings, for example, in FIGS. 5-7, as well as in the specification of Applicants' United States Patent Publication No. 2004/0187318 as originally filed. Support in the specification can be found, for example, in paragraphs [0048]-[0050].

Independent Claim 40 in particular is directed to a rotary trimmer comprising, among other components, *...a cutting blade... having a plurality of apertures and a hub connected to the cutting blade via the plurality of apertures...*, while Independent Claim 47 is directed to a rotary trimmer comprising, among other components, *...a clip for connecting the blade guard to the cutting blade.*

As indicated by the Examiner in the Interview and the associated Interview Summary, the aforementioned Independent Claim 40 includes, among other features, the requisite structural features of the plurality of apertures and the hub, which the Examiner indicated would overcome Brening. Similarly, independent Claim 47 includes the requisite structural

feature of the clip, which as indicated by the Examiner, would also overcome Brening. Additionally, Applicants believe that neither Boda et al. nor Ridgely (references noted above as being the basis for separate rejections of claims under 35 U.S.C. §102(b), remedy the deficiencies of Brening. Accordingly, Applicants respectfully submit that Claims 40 and 47 define patentable subject matter

Claims 41-46 depend either directly or indirectly from Independent Claim 40 and are therefore allowable for at least the same reasons noted in support of Claim 40. In addition and as noted above, Claim 25 has been amended to depend from Claim 47 and Claim 20 depends from Claim 25.

In sum, the Examiner is respectfully requested to place the Claims 40-47, as well as Claims 20 and 25, are in condition for allowance.

Conclusion

The Applicants believe that the amendments to the claims and the comments above place the Application in condition for allowance. Accordingly, the Applicants respectfully request the Examiner to consider and allow the pending claims.

The Final Office Action was mailed on August 27, 2008. Thus, a three month extension fees is believed due with the filing of this amendment and response. An additional claim fee is additionally believed due with this filing. Please charge Deposit Account 23-2053 for the extension fee, as well as the additional claim fee that is due. No other fee or petition is believed due in connection with this submission. If any such other additional fee is in fact due, please charge the above-referenced Deposit Account. Also, any required petition should be considered provisionally made.

The Examiner is invited to call the Applicant's attorney at 414-978-5539 in the event that such communication would facilitate allowance of the present Application.

Respectfully submitted,



Thomas J. Pienkos
Reg. No. 46,992

Dated: Feb. 13, 2009

P.O. ADDRESS:
WHYTE HIRSCHBOECK DUDEK S.C.
555 East Wells Street, Suite 1900
Milwaukee, Wisconsin 53202
(414) 273-2100
Customer No. 022202